

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 345 be amended to read as follows:

- 1 Page 8, between lines 26 and 27, begin a new paragraph and insert
2 the following:
3 "SECTION 7. IC 34-55-10-2, AS AMENDED BY P.L.179-2005,
4 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2008]: Sec. 2. (a) This section does not apply to judgments
6 obtained before October 1, 1977.
7 (b) The amount of each exemption under subsection (c) applies until
8 a rule is adopted by the department of financial institutions under
9 section 2.5 of this chapter.
10 (c) The following property of a debtor domiciled in Indiana is
11 exempt:
12 (1) Real estate or personal property constituting the personal or
13 family residence of the debtor or a dependent of the debtor, or
14 estates or rights in that real estate or personal property, of not
15 more than fifteen thousand dollars (\$15,000). The exemption
16 under this subdivision is individually available to joint debtors
17 concerning property held by them as tenants by the entireties.
18 (2) Other real estate or tangible personal property of eight
19 thousand dollars (\$8,000).
20 (3) Intangible personal property, including choses in action,
21 deposit accounts, and cash (but excluding debts owing and
22 income owing), of three hundred dollars (\$300).
23 (4) Professionally prescribed health aids for the debtor or a
24 dependent of the debtor.

(5) Any interest that the debtor has in real estate held as a tenant by the entireties. The exemption under this subdivision does not apply to a debt for which the debtor and the debtor's spouse are jointly liable.

(6) An interest, whether vested or not, that the debtor has in a retirement plan or fund to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan or fund by or on behalf of the debtor or the debtor's spouse:

(i) which were not subject to federal income taxation to the debtor at the time of the contribution; or

(ii) which are made to an individual retirement account in the manner prescribed by Section 408A of the Internal Revenue Code of 1986;

(B) earnings on contributions made under clause (A) that are not subject to federal income taxation at the time of the levy; and

(C) roll-overs of contributions made under clause (A) that are not subject to federal income taxation at the time of the levy.

(7) Money that is in a medical care savings account established under IC 6-8-11.

(8) Money that is in a health savings account established under Section 223 of the Internal Revenue Code of 1986.

~~(8)~~ (9) Any interest the debtor has in a qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code of 1986, but only to the extent funds in the program are not attributable to:

(A) excess contributions, as described in Section 529(b)(6) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars (\$5,000) of aggregate contributions made by the debtor for all programs under this subdivision and education savings accounts under subdivision

(9) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the aggregate contributions.

~~(9)~~ (10) Any interest the debtor has in an education savings account, as defined in Section 530(b) of the Internal Revenue Code of 1986, but only to the extent funds in the account are not

- 1 attributable to:
- 2 (A) excess contributions, as described in Section 4973(e) of
- 3 the Internal Revenue Code of 1986, and earnings on the excess
- 4 contributions;
- 5 (B) contributions made by the debtor within one (1) year
- 6 before the date of the levy or the date a bankruptcy petition is
- 7 filed by or against the debtor, and earnings on the
- 8 contributions; or
- 9 (C) the excess over five thousand dollars (\$5,000) of aggregate
- 10 contributions made by the debtor for all accounts under this
- 11 subdivision and qualified tuition programs under subdivision
- 12 (8) having the same designated beneficiary:
- 13 (i) not later than one (1) year before; and
- 14 (ii) not earlier than two (2) years before;
- 15 the date of the levy or the date a bankruptcy petition is filed by
- 16 or against the debtor, and earnings on the excess contributions.
- 17 ~~(10)~~ **(11)** The debtor's interest in a refund or a credit received or
- 18 to be received under section 32 of the Internal Revenue Code of
- 19 1986.
- 20 (d) A bankruptcy proceeding that results in the ownership by the
- 21 bankruptcy estate of a debtor's interest in property held in a tenancy by
- 22 the entirety does not result in a severance of the tenancy by the
- 23 entireties.
- 24 (e) Real estate or personal property upon which a debtor has
- 25 voluntarily granted a lien is not, to the extent of the balance due on the
- 26 debt secured by the lien:
- 27 (1) subject to this chapter; or
- 28 (2) exempt from levy or sale on execution or any other final
- 29 process from a court."
- 30 Renumber all SECTIONS consecutively.
- (Reference is to ESB 345 as printed February 15, 2008.)

Representative Foley